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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,152	09/13/2000	RIE SUZUKI	35.G2067D	2716
5514	7590	06/24/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			BOAKYE, ALEXANDER O	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2667	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/661,152

Applicant(s)

SUZUKI, RIE

Examiner

Alexander Boakye

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20, 26-28, 30 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-28, 30 and 35-42 is/are allowed.
- 6) ☒ Claim(s) 11-13, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Takai et al. (US Patent # 5, 504,774).

Regarding claim 11, Takai discloses a spread spectrum communication apparatus comprising: communication means for communicating a spread spectrum signal divided into a plurality of data-communication periods (column 13, lines 40-45); and adjustment-signal communication means for continuously communicating an adjustment signal for adjusting reception of the spread spectrum signal between one data-communication period and another communication period, such that the spread spectrum signal is continuously communicated (column 12, lines 20-35; column 21, lines 11-21; Transmission unit of the base station continuously transmits a synchronizing pilot channel which is inherent in the transmitter).

Regarding claim 12, the claimed adjustment signal is a signal for adjusting the synchronization of a spread code is inherent in the Transmitter of Takai.

Regarding claim 13, Takai teaches that the adjustment-signal communication means communicates a first adjustment signal prior to the plurality of data-communication periods (column 13, lines 40-45 ; column 12, lines 20-35).

Regarding claim 17, Takai teaches that the data communication means communicates code division multiplexed data in the data-communication period (column 13, lines 40-45).

2. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takai (US Patent # 5,978,412) in view of Ostman (US Patent # 5,590,160).

Regarding claim 16, Takai teaches a spread spectrum communication apparatus (see Fig. 10). Takai does not disclose that the adjustment signal is a signal for adjusting gain. However, Ostman discloses that the adjustment signal is a signal for adjusting gain (column 6, lines 65-67). One of ordinary skill in the art would have been motivated to incorporate a signal for adjusting gain into the communication network of Takai in order to provide synchronization. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a signal for adjusting gain such as the one taught by Ostman into the communication network of Takai with the motivation being that it provides capability for the system to overcome fading.

***Allowable Subject Matter***

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3. Claims 14, 15, 18, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-28 30 and 35-42 are allowable.

The following is a statement of reasons for the indication of allowable subject matter: As to claims 26-28 and 30, the prior art of record does not teach information transmission means for transmitting, between each two successive sets of data, information to be used by a receiving end for receiving the later one of the two successive sets of data, such that the spread spectrum signal is continuously transmitted, wherein the data transmission means transmits the sets of data by code division multiplexing, and the information transmission means transmits information which is not multiplexed by code division multiplexing. As to claims 35-38, the prior art of record does not teach wherein the transmission means further transmits an adjustment signal for adjusting synchronization, in the continuous spread spectrum signal, between one of the plurality of data-communication periods and another one of the plurality of data-communication periods. As to claims 39-42, the prior art of record does not teach wherein the information transmission means transmits first information prior to the sets of data, wherein a transmission period of the first information is longer than that of the information between each two successive sets of data.

### ***Response to Arguments***

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Applicant's arguments with respect to claims 11-20, 26-28, 30 and 35-42 have been considered but are moot in view of the new ground(s) of rejection.

### Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571) 272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272-3179. The fax number is (703) 872-9306. Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Electronic Business Center numbers 866-217-9197 and 703-305-3028.

Alexander Boakye

Patent Examiner

AB

06/22/05

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2667 6/23/05